

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON

KYLE T. J. MAYFIELD,

Plaintiff,

Case No. 3:21-cv-286

vs.

STATE OF OHIO, *et al.*,

District Judge Michael J. Newman
Magistrate Judge Michael R. Merz

Defendants.

**ORDER: (1) ADOPTING THE REPORT AND RECOMMENDATIONS OF THE
UNITED STATES MAGISTRATE JUDGE (DOC. NO. 32); AND (2) DISMISSING THIS
CASE WITH PREJUDICE AND TERMINATING IT ON THE DOCKET**

This case is before the Court on the Report and Recommendations issued by United States Magistrate Judge Michael R. Merz, to whom this case was referred under 28 U.S.C. § 636(b). Doc. No. 32. On June 27, 2022, this Court granted Plaintiff leave to file an amended complaint against Montgomery County, Ohio corrections officers for their alleged use of excessive force under 42 U.S.C. § 1983. Doc. No. 29. Plaintiff subsequently filed a proposed amended complaint requesting injunctive and declaratory relief relating to the criminal case pending against him in Montgomery County, Ohio and a subsequent request for an extension of time to amplify his proposed amended complaint. Doc. Nos. 30, 31. Judge Merz recommended that this Court strike his proposed amended complaint and dismiss his case in its entirety. Doc. No. 32. Plaintiff has not objected to Judge Merz's Report and Recommendations, and the deadline for doing so has passed.

Upon careful *de novo* consideration of the foregoing, the Court determines that the Report and Recommendations should be adopted. Accordingly, it is hereby **ORDERED** that: (1) the

Report and Recommendations are **ADOPTED** in full (Doc. No. 32); and (2) this case is **DISMISSED WITH PREJUDICE** and **TERMINATED** on the docket.¹

IT IS SO ORDERED.

Date: August 31, 2022

s/Michael J. Newman

Hon. Michael J. Newman
United States District Judge

¹ Pursuant to 28 U.S.C. § 1915(a)(3), the Court hereby **CERTIFIES** to the United States Court of Appeals for the Sixth Circuit that an appeal by Plaintiff would be frivolous and not taken in good faith. Consequently, Plaintiff should not be permitted to proceed in forma pauperis on appeal, and the Court **DENIES** Plaintiff a certificate of appealability.